



<b>Office Action Summary</b>	<b>Application No.</b> 10/595,715	<b>Applicant(s)</b> WESTON, MICHAEL
	<b>Examiner</b> David T. Fidei	<b>Art Unit</b> 3728

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If no period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED. (35 U.S.C. § 133).

Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1) Responsive to communication(s) filed on 20 August 2009.

2a) This action is FINAL.      2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4) Claim(s) 1-32 is/are pending in the application.

4a) Of the above claim(s) 12-32 is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-11 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on 05 May 2006 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO-1668)  
 Paper No(s)/Mail Date 8/20/09

4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date. \_\_\_\_\_

5) Notice of Informal Patent Application

6) Other: \_\_\_\_\_

***Election/Restrictions***

1. Claims 12-32 withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on August 20, 2009.

***Claim Objections***

2. Claims 4-6 recite a means where that is unclear what corresponding structure is imported from the disclosure.

Pursuant to 37 CFR 1.75(d) and MPEP §§ 608.01(o) and 2181, applicant is required to:

- (a) Amend the claim so that the claim limitation will no longer be a means (or step) plus function limitation under 35 U.S.C. 112, sixth paragraph; or
- (b) Amend the written description of the specification such that it expressly recites the corresponding structure, material, or acts that perform the claimed function and clearly links or associates the structure, material, or acts to the claimed function, without introducing any new matter (35 U.S.C. 132(a)); or
- (c) State on the record what the corresponding structure, material, or acts, which are implicitly or inherently set forth in the written description of the specification, perform the claimed function.

***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1-11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It is not seen how the language employed in claim 1 reads on the disclosed subject matter. Terminology is employed that is not consistent with the disclosure.

In claim 1 a base panel is defined with a first edge, an adjacent second edge, a first distal fold line opposite said first edge, and a second distal fold line opposite said second edge. It is not clear what are considered “opposite”, “adjacent” or “distal”. In the embodiment of figure 2, a base panel (14) is disclosed that is not defined by adjacent first and second edges. As shown in the figure the base panel (14) is provided with fold lines on three sides with only one edge. A first fold line opposite said first edge and a second distal fold line opposite the second edge are also defined. It is not known what is considered “opposite” these edges as the edges are not set forth with any degree of clarity. Since claim 1 recites a spine panel (e.g. 16 of figure 1) as defined by said first fold line (which must be 24) and a third distal edge (which must be the other fold line 24 in figure 1); and the first fold line is previously set forth as opposite the first edge, the first edge must be 24b. However, 24b is a fold line and not an edge (see page 6 of the present invention). Also, it is unclear what the third distal edge is that defines the spine panel (16). The distinction between edges and fold lines as disclosed and subsequently claimed is confusing. The uses of the terms appear to be mis-matched with one another and the disclosure is of no value in resolving the terminology. At least one extension panel (e.g. 26 of figure 2) is set forth in claim 1 as defined by the second fold line (un-numbered in figures) and a fourth distal edge where it is unclear what the distal edge of the extension panel is. Hence, the scope and content of the claim is indefinite.

Also in claim 1, said edges have multiple antecedent basis and it is unclear what edges are being referenced. Similarly, in claim 10 said panels has multiple antecedent basis. Also, the spine support is disclosed as attached only to the top panel which has not been set forth in claim 1. The present disclosure provides no disclosure of the support panel attached to any other panel.

In claims 4-6, it is unclear if a “means plus function” is being set forth as provided by 35 U.S.C. 112, sixth paragraph.

In claim 7, said sidewall panels has no antecedent basis.

In claim 11, it is unclear what “1” refers to.

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1-3, 7 and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by Wong (US 2001/0040113). As is best understood, a system is disclosed by Wong comprising a slide card (11 or 12) with tray comprising a base panel (18 where any of the outer parts may be considered a fold line or edge), a spine panel (16 or 17) and at least one extension panel (19 or 20, see figure 4). The extension panel comprises at one securing panel (31 or 34), a pair of side wall sections (24, 33 or 23, 30) and a top section (32 or 29) all separated by adjacent fold lines. Wong also discloses a sleeve (14) having first side panel (defined by the top panel of 14 in figure

2), defined by a first edge and a distal second edge, attached to an adjacent first spine panel (defined by either of the side panels of 14 shown in figure 2), a second side panel (defined by the bottom panel of 14 in figure 2) attached to said first spine panel and a second adjacent spine panel (defined by the other one of sidewall panels of 14 shown in figure 2), and at least one end panel (defined by the closure panel of 14 shown in figure 2) attached to one of said edges; and, wherein said outer sleeve defines a void configured to receive said inner slide card with tray.

As to claim 2, the securing section (31 or 34) is affixed to the base panel such that the sidewall sections are substantially parallel as shown in figure 6.

As to claim 3, a first engaging element (65, see paragraph [0041]) is disclosed inasmuch as is claimed.

As to claim 7, at least one side wall (33 or 30) includes an aperture.

As to claim 8, the top wall (32 or 29) includes at least one securing element (21 or 22) proximate the aperture, configured to hold an item.

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

9. Claims 1-3 and 7-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Paillet (US 4,450,965) in view of Wong (US 2001/0040113). As is best understood, a system is disclosed by Paillet comprising a slide card with tray comprising a base panel (2), a spine panel (7 defined between fold lines 8, see figure 3) and at least one extension panel (defined by panels 3, 4, 12 and 19, see figures 1-5). The extension panel comprises at one securing panel (19), a pair of side wall sections (3 and 12) and a top section (4) all separated by adjacent fold lines. The difference between the claimed subject matter and Paillet resides in an outer sleeve defining a void to receive the slide card with tray.

Wong also discloses a sleeve (14) having first side panel (defined by the top panel of 14 in figure 2), defined by a first edge and a distal second edge, attached to an adjacent first spine panel (defined by either of the side panels of 14 shown in figure 2), a second side panel (defined by the bottom panel of 14 in figure 2) attached to said first spine panel and a second adjacent spine panel (defined by the other on of sidewall panels of 14 shown in figure 2), and at least one end panel (defined by the closure panel of 14 shown in figure 2) attached to one of said edges; and, wherein said outer sleeve defines a void configured to receive said inner slide card with

tray. It would have been obvious to modify the assembly of Paillet by including a sleeve as taught by Wong, for the reason of permitting shipment of the assembly.

As to claim 2, the securing section (19) is affixed to the base panel such that the sidewall sections are substantially parallel as shown in figure 6 of Paillet.

As to claim 3, a first engaging element (30, 29, see figure 6 of Paillet) is disclosed inasmuch as is claimed.

As to claim 7, at least one side wall (3) includes an aperture.

As to claim 8, the top wall (4) includes at least one securing element (5) proximate the aperture, configured to hold an item.

As to claim 9, wherein said card further comprises a top panel (A) configured to cover said tray.

As to claim 10, further comprises a spine support (21), attached to one of said panels, and positioned adjacent to said spine panel inasmuch as is claimed.

10. Claims 1-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Paillet (US 4,450,965) in view of Rosenburg, Jr. (US 3,761,010). As is best understood, a system is disclosed by Paillet comprising a slide card with tray comprising a base panel (2), a spine panel (7 defined between fold lines 8, see figure 3) and at least one extension panel (defined by panels 3, 4, 12 and 19, see figures 1-5). The extension panel comprises at one securing panel (19), a pair of side wall sections (3 and 12) and a top section (4) all separated by adjacent fold lines. The difference between the claimed subject matter and Paillet resides in an outer sleeve defining a void to receive the slide card with tray.

Rosenburg, Jr. discloses a safety carton with a sleeve (20) having first side panel (22), defined by a first edge and a distal second edge, attached to an adjacent first spine panel (23), a second side panel (24) attached to said first spine panel and a second adjacent spine panel (15), and at least one end panel (16) attached to one of said edges; and, wherein said outer sleeve defines a void configured to receive a container member (10). It would have been obvious to one of ordinary skill in the art to modify the assembly of Paillet by including a outer sleeve as taught by Rosenberg Jr. for the reason of forming a taperproof assembly.

As to claim 2, the securing section (19) is affixed to the base panel such that the sidewall sections are substantially parallel as shown in figure 6 of Paillet.

As to claim 3, a first engaging element (defined by the bottom edge 13, see figure 2, and an opposite bottom edge, not numbered, of Paillet, see figure 2) is disclosed inasmuch as is claimed.

As to claim 4, the outer sleeve (20 of Rosenberg, Jr.) comprises a second engaging element (defined by the edge between panels 32, 33 and the bottom of the container 10, see figures 3 and 4) releasably connected to the first engaging element.

As to claim 5, the sleeve (20) further comprises a release element (32, 33, see figure 5 of Rosenberg Jr.) proximate to said second engaging element.

As to claim 6, either of the outer sleeve engaging elements (defined by the edge between panels 32, 33 and the bottom of the container 10, see figures 3 and 4) can be considered a third engaging element inasmuch as is claimed.

As to claim 7, at least one side wall (3) includes an aperture.

As to claim 8, the top wall (4) includes at least one securing element (5) proximate the aperture, configured to hold an item.

As to claim 9, wherein said card further comprises a top panel (A) configured to cover said tray.

As to claim 10, further comprises a spine support (21), attached to one of said panels, and positioned adjacent to said spine panel inasmuch as is claimed.

11. Claims 3, 4 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over the Wong (US 2001/0040113) as applied to claim 2 above, and further in view of Houghland (US 1,253,489). The difference between the claimed subject matter and the prior art resides in the card comprising a first engaging element, the sleeve comprising a second engaging element configured to releasably connect with the first engaging element. Houghland discloses a container (C) forming a sheath to receive a sliding container (A) therein. A first engagement member (B) is constructed on the sliding member to engage with a second element (D). It would have been obvious to one of ordinary skill in the art to construct the card member having a first element with the sleeve having a second element that releasably connected as suggested by Houghland, for the reason of locking the components of the assembly together in a closed configuration.

As to claim 6, the engagement element (D) can be considered a third engaging element inasmuch as is claimed.

12. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wong (US 2001/0040113) as applied to claim 1 above, and further in view of Coppola (US 6,830,147). Coppola discloses a bottle with an information disk attached thereto. To modify the bottles with a data storage as suggested by Coppola would have been obvious for the reason of providing information relating to the products or as a premium to the items.

***Conclusion***

13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Huffman et al (US 2005/0205437), Grul et al (US 2004/0050724), McKinney et al (US 2002/0195814) and (US 6,685,226), are cited to show that it is well known to data storage devices to diverse articles.

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to David T. Fidei whose telephone number is (571) 272-4553. The examiner can normally be reached on Monday - Friday 8:30 am - 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu can be reached on (571) 272-4562. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/David T. Fidei/  
Primary Examiner, Art Unit 3728